

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Christine NOEL, et al.

SERIAL NO.: 10/685,505

FILED: OCTOBER 16, 2003



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EXAMINER: S. GOLLAMUDI

:

GROUP ART UNIT: 1616

FOR: COMPOSITION IN THE FORM OF AN
OIL-IN-WATER EMULSION AND USES
THEREOF

DECLARATION UNDER 37 C.F.R. 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

I, Ann-France RATEL (formerly Anne-France LIVERNETTE), hereby declare:

1. I am a named inventor on the above-identified patent application, and am employed by L'ORÉAL as an engineer. I have experience in the field of preparing and analyzing cosmetic and/or dermatological compositions, particularly emulsions.
2. The following observations and experiments were carried out by me or under my direct supervision and control.
3. The following compositions were prepared:

Ingredient	Invention composition	Comparative Example	Base Composition
Hostacerin AMPS (sold by Hoescht)	2%	2%	2%

Demineralized water	Qs 100%	Qs 100%	Qs 100%
Cyclopentasiloxane	6%	6%	6%
KSG 16 (containing 24% active material)	15%	15%	15%
Undecylenoylglycine	0.125%	—	—
Methionine	—	0.125%	—
Preservative	0.4%	0.4%	0.4%
Coloring solution 0.1%	0.8%	0.8%	0.8%
triethanolamine	0.097%	—	—

4. Invention Composition was identical to Comparative Example except that Comparative Example contained methionine. In contrast, Invention Composition contained undecylenoylglycine and a small amount of triethanolamine (to help with solubilization). No help with solubilization was necessary for Comparative Example, so no triethanolamine was added. Base Composition did not contain methionine or undecylenoylglycine.

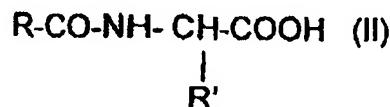
5. Comparative Composition which contained methionine, and Base Composition which did not contain any amino acid, were unstable, meaning among other things that these compositions were unacceptable for commercial use. That is, these two compositions were unstable dispersions having large oily globules throughout as demonstrated by photograph II (Comparative Example) and photograph III (Base Composition) attached hereto at Tab A. Such large oily globules are characteristic of unstable compositions.

6. In stark contrast, Invention Composition was a stable cream composition. It was a fine dispersion and did not contain large oily globules. (See, photograph I at Tab A).

7. Given the similarity of Invention Composition, Comparative Example and Base Composition, it was surprising and unexpected that compositions containing a lipophilic amino acid were stable, whereas identical compositions lacking any amino acid or containing methionine were not stable.

8. Such surprising and unexpected results are fully representative of the present invention. That is, I would expect compositions in the form of an oil-in-water emulsion comprising an oily phase dispersed in an aqueous phase and a hydrophilic polymer, said composition further comprising:

- (1) at least one elastomeric organopolysiloxane, and
- (2) an emulsion stabilizing effective amount of at least one glycine derivative of formula (II) below or a salt of such a compound:



in which R is selected from the group consisting of alkyl and alkenyl radicals containing from 6 to 22 carbon atoms and R' is hydrogen or an alkyl radical containing from 1 to 30 carbon atoms, to possess improved stability properties like those of Invention Composition. I have no reason to expect otherwise.

9. The fact that the compositions of the present invention are more stable is commercially significant. More stable products are more desirable to consumers and, thus, more commercially viable. Also, active ingredients in more stable products are more likely to maintain activity longer than in unstable products, making such stable products more desirable to consumers.

10. The undersigned petitioner declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false

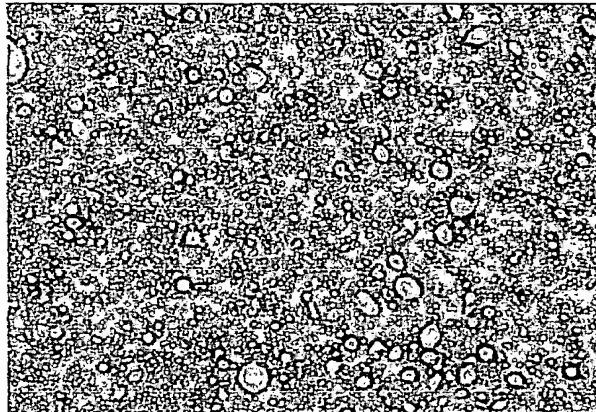
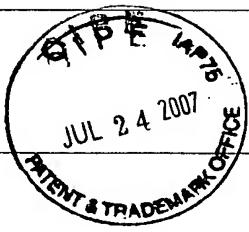
statements and the like so made are punishable by fine or imprisonment, or both, under
Section 1001 of Title 18 of the United States Code and that such willful false statements may
jeopardize the validity of this application or any patent issuing thereon.

11. Further deponent sayeth not.

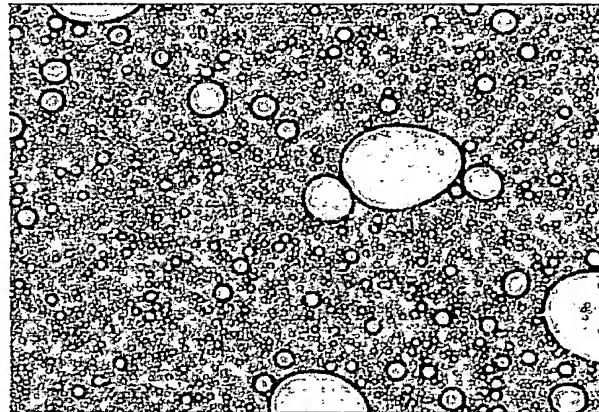
AF. RATEL
Name

RatelaJ
Signature

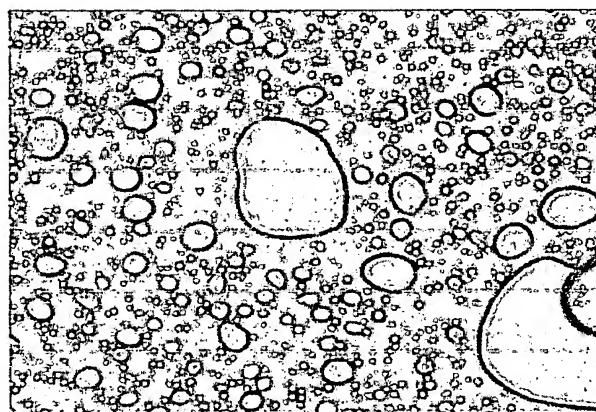
19/07/07
Date



Example of the invention
(15% KSG)



Comparative example
(15% KSG)



BASE (15% KSG)